In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.1803 of 2006.

Date of decision:23.10.2006.

Hari Chand.

...Petitioner.

Versus

Sri Sanatan Dharam Punjab Mahavir Dal Mansa and another.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N.Aggarwal.

...

Present: Mr.K.K.Bansal Advocate for the petitioner.

Mr.P.S.Dhaliwal Advocate for respondent No.1.

...

Judgment.

S. N. Aggarwal, J.

Hari Chand appellant was a tenant under respondent No.1, Sri Sanatan Dharam Punjab Mahavir Dal Mansa in the shop in dispute. Ejectment petition was filed against him by the respondent on 20.7.1995 on the plea that he had failed to pay the arrears of rent after 31.3.1994 and he had sub-let the premises to his son Vinod Kumar Mida,respondent No.2.

This application was contested by Hari Chand petitioner and the grounds of ejectment were rebutted.

Issues were framed.

Respondent No.1 examined Nahar Singh, Manager as AW-1, Jagdish Rai Jindal, Advocate as AW-2 and Ishar Chand as PW-3 and closed his evidence.

On the other hand, the appellant examined Vijay Kumar as RW-1, Charanjit Lal as RW-2, Vinod Kumar as RW-3, Ashok Kumar as RW-4, Gurcharan Dass as RW-5 and the petitioner himself appeared as RW-6. He also examined Amritpal Nazar as RW-7 and Gurtej Singh,Criminal Ahlmad as RW-8.

The learned Rent Controller after assessing the evidence reached the conclusion that Hari Chand appellant has sub-let the shop in question to his son Vinod Kumar Mida, respondent number 2. However, it was held that the arrears of rent were tendered by the petitioner on the first date of hearing and that ground for ejectment did not survive. Accordingly, in view of findings that the petitioner had sub-let the premises to Vinod Kumar Mida,respondent, the ejectment petition was accepted vide order dated 4.9.2004 and the petitioner as well as respondent No.2 were directed to hand over the vacant possession of the shop in dispute to respondent No.1.

The petitioner filed an appeal before the Appellate Authority. The learned Lower Appellate Authority up-held the findings of fact recorded by the learned Rent Controller and dismissed the appeal vide judgment dated 20.1.2006.

Hence, the present Civil Revision.

The submission of learned counsel for the petitioner was that respondent No.2 is the son of the petitioner and even if respondent No.2 is in possession of the demised premises, it does not amount to sub-letting. On the other hand, the learned counsel for respondent No.1 placed reliance on the judgment of the Hon'ble Supreme Court reported as **Joginder Singh Sodhi Versus Amar Kaur,** 2005(1) Civil Court Cases 238 (SC) in which it was held that even if the possession of the shop has been entrusted by the tenant to his son without the written consent of the landlord and the son was living separately from the tenant, it amounts to sub-letting. It is, therefore, held that there is no ground to interfere with the concurrent finding of fact recorded by the Courts below.

No merit.

Dismissed.

October 23,2006. (S. N. Aggarwal)
Jaggi Judge